

MARK STEVEN KIRK
11th District, Illinois

COMMITTEE ON
APPROPRIATIONS

SUBCOMMITTEES:
STATE, FOREIGN OPERATIONS, AND
RELATED AGENCIES
FINANCIAL SERVICES AND
GENERAL GOVERNMENT

EPA Region 5 Records Ctr.



355506

Congress of the United States
House of Representatives
Washington, DC 20515-1310

December 10, 2008

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Mr. Kevin Adler
Remedial Project Manager
EPA Region 5 (SR-6J)
77 W. Jackson Blvd.
Chicago, IL 60604-3590

RE: Comments on EPA's Proposed Cleanup Plan for the Outboard Marine Corporation Waukegan Harbor Site in Waukegan, Illinois

Dear Mr. Adler:

I am writing to support the Environmental Protection Agency's (EPA) cleanup plan for the Outboard Marine Corporation (OMC) Waukegan Harbor Site located in my congressional district in Waukegan, IL. It is crucial that we not delay the full remediation of the harbor any longer and begin immediately implementing this plan.

The contamination destroying Waukegan Harbor for the last three decades continues to pose a threat to human health, aquatic life, and the ecosystem as a whole. The more than 200,000 cubic yards of polluted sediment turned the harbor into a virtual wasteland, prohibiting the potential economic development of the region. The cleanup of the harbor will not only improve the safety of our residents and the health of our environment, but also it will allow for the community's redevelopment. Such development will increase property values and return much-needed tax revenue to our schools.

The plan chosen by the EPA to provide environmental dredging with residual sand cover would accomplish all the cleanup goals in a timely and cost-effective manner. This option is also the most comprehensive and environmentally responsible, as it would permanently remove the contamination from the harbor. Capping the sediment would only create a barrier between the pollution and our waters - leaving us to face the possibility that we would have to start the cleanup all over again should leakages occur. It is crucial that we clean up the harbor and clean it up properly.

I worry that certain stakeholders are more concerned about removing industry from the lakefront than the threat to human health in our community. Last year, we saw a plan to clean the harbor under the Great Lakes Legacy Act fall apart despite a broad community consensus in favor of the proposal. Together, we assembled a massive coalition including area businesses, Lake County, community leaders and the federal government to remove the PolyChlorinated Biphenyls (PCBs) that poison the harbor. This option was quicker and cheaper than the Superfund process, but despite the many benefits, a project agreement went unsigned. Hundreds of thousands of taxpayer dollars have been spent in

legal fees to block the EPA from remediating the harbor. In a time of economic uncertainty, it is alarming that taxpayer dollars would be used to delay the cleanup of the harbor, particularly because the revitalization of the lakeland would deliver millions of dollars in economic development to northern Illinois. A redeveloped lakeland will not occur so long as contaminated sediment rests at the bottom of Waukegan Harbor, regardless of the presence of industry along the shoreline.

I commend the EPA for continuing to work toward the remediation of this important Area of Concern, despite many setbacks. I hope that from this point forward, local taxpayer dollars will stop being spent on exorbitant legal fees to delay remediation and will start being spent on the actual environmental cleanup of Waukegan Harbor.

I lend my full support to this cleanup plan and urge its swift implementation. Further delays present an unacceptable risk to the people of my congressional district and are not in the public's best interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Kirk". The signature is fluid and cursive, with the first name "Mark" and last name "Kirk" clearly distinguishable.

Mark Kirk
Member of Congress

To Cam Davis
From: Ann Maine

5 pages including cover.

Cam - we were given this yesterday
Notes, underlinings etc. mine made @ committee.

Ann

Jeep & Blazer, L.L.C.

environmental law

Jeffery D. Jeep*
Michael S. Blazer**
Thomas S. Yu
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* Also admitted in Massachusetts
** Also admitted in New York

Jeffery D. Jeep
email: jjeep@jeepblazer.com

Web Site: www.jeepblazer.com

Via Facsimile (847-340-7143)

May 1, 2007

Mark Steven Kirk
Congressman, 10th Congressional District of Illinois
United States House of Representatives
Northbrook Office
707 Skokie Boulevard
Suite 350
Northbrook, IL 60062

Re: Waukegan Harbor

Dear Congressman Kirk,

Thank you for meeting yesterday afternoon with Ray Vukovich, Alderman Pat Needham and me to discuss Waukegan Harbor. We look forward to working closely with your office to clean the harbor and promote the redevelopment of the lakefront consistent with the City's Downtown and Lakefront Master Plan. We reached agreement on a number of issues this afternoon. Additional issues came to mind after our meeting. We discuss both below.

A. ISSUES ON WHICH AGREEMENT WAS REACHED

1. In order to meet the above dual goals, you proposed to work with United States Senator Durbin to pass legislation de-federalizing Waukegan Harbor. The subject Federal legislation will also limit the maximum draft of any vessel entering Waukegan Harbor to 10 feet. Your staff will provide us with the draft legislation for our review and input. This effort will also be coordinated with Senator Durbin's staff.

Who will pay for dredging

Letter to Congressman Kirk
Jeep & Blazer, L.L.C.
Page 2 of 4

2. You will support the City's efforts to incorporate into the final remedial project design a berm in the Entrance Channel that will block vessels with a draft of greater than 10 feet from entering Waukegan Harbor.
3. The City will execute a project agreement for the remedial design no later than May 7, 2007 and work diligently to submit an application to USEPA for Legacy Act funding in advance of the July 2007 deadline, subject to prior receipt of confirmation of the agreements outlined in this letter.
4. We all assume that LaFarge and National Gypsum will not contribute \$3 million towards the cost of the project, since their deep draft vessels will no longer have access to Waukegan Harbor. We will work together to make up the \$3 million shortfall. (Roy Czajkowski's suggestion that the City receive an in-kind services credit for allowing City owned property to be used as a staging area for the project is a good one.)
5. After our meeting, Ray, Pat and I returned for a brief discussion with Eric Elk. It is understood, and Eric agreed, that it is unrealistic to construct the remedial action this year and that, as a practical matter, it makes more sense to commence the project in 2008. Pushing commencement of the Work to 2008 provides time for enactment of the agreed Federal legislation discussed above. As was explained during our meeting, the Waukegan City Council may have serious reservations about authorizing the City to serve as local project sponsor in anticipation of enactment of the agreed Federal legislation. By delaying the project to 2008, you and Senator Durbin will have the time needed to enact the Federal legislation, which, again, may be viewed by the City Council as a necessary precondition to the City's agreement to proceed forward with the remedial action portion of this project.
6. The City needs to minimize its exposure to cost overruns. There are various tools for limiting the City's exposure, including building conservative contingencies into the project cost, placing an outer limit on the project cost and insurance. We will discuss this subject further as we approach the time the City must agree to pay 35% of the project cost (minus fixed cash contributions by others).

B. ISSUES REQUIRING FURTHER DISCUSSION

1. The preliminary design for the project provides for both an environmental and navigational

Assume
to 2.5M

Letter to Congressman Kirk
Jeep & Blazer, L.L.C.
Page 3 of 4

dredge. The cost of the navigational dredge is a relatively small percentage of the overall project cost. Nonetheless, in light of the agreed plan to prohibit deep draft vessels from entering the Harbor, it does not make sense to spend additional taxpayer money on the unnecessary navigational dredge portion of the project. Eliminating these costs will help make up for lost contributions from LaFarge and National Gypsum.

2. You may recall that Senator Link was instrumental in the passage of §9.11(b) of the Illinois Environmental Protection Act, 415 ILCS 5/9.11(b). This legislation prohibited the construction of the NSSD "thermal treatment" facility within an Area of Concern. You and Senator Durbin could take a similar approach to amending §10 of the Rivers and Harbors Act of 1890 (now Section 403 of the Clean Water Act, 33 U.S.C.A. § 403). Section 403 of the CWA prohibits the placement of an "obstruction", such as a remedial berm limiting the draft of vessels entering the Waukegan Harbor, in "any waters of the United States." Such an obstruction requires the approval of the Army Corps. of Engineers. Section 403 could be amended to eliminate the need for ACOE approval if the "obstruction" is part of an approved remedial measure implemented within an Area of Concern.
3. The City's objective has been and remains to delist Waukegan Harbor as an Area of Concern. Both the City and Illinois Environmental Protection Agency have long expressed concern that prop wash from deep draft vessels will damage the integrity of the isolation/stabilization sand layer to be placed over material containing 1 ppm of PCBs (or less) that will remain after the environmental dredge. The issue is stated in the Preliminary Design Document as follows:

The design calls for placement of 0.5 feet, 1.0 feet, or 2.0 feet of sand as a post-dredging cover to meet the [Surface Weighted Average Concentration]. These thicknesses are based on an assumption of 1 inch of residuals generated during the dredging operations, and a full mix of cover material with this one inch of residual. The thicker residual cover thicknesses is assumed to be placed only in the navigation channel and are assumed to be mixed by prop wash. Value Engineering Study, July 2006, at p. 52. Preliminary Design Document, November 2005, p. 1-4 (emphasis added).

The concern of the City and IEPA is addressed by eliminating prop wash from deep draft vessels.

4. On November 22, 2006 the City submitted to USEPA a Basis of Design Memorandum for Alteration of Slip No. 3 in Waukegan Harbor. It is essential that USEPA approve the

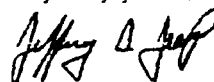
Letter to Congressman Kirk
Jeep & Blazer, L.L.C.
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redevelopment of Slip 3 for the purpose of placing a dry rack storage facility near Larsen Marine's existing marina operations at the north end of Waukegan Harbor. USEPA informed the City on March 30, 2007 that there are no major technical roadblocks to formal approval of the Design Memorandum. The City Council would obviously welcome final action by USEPA in the near future.

5. Similarly, the City has a long standing request to incorporate a release from natural resource damages into the 2005 Supplemental Consent Decree for the OMC North Plant. In a letter dated June 30, 2004 the Natural Resource Trustees linked an NRD release to the City's participation in the environmental dredging project. The City Council trust the Trustees will keep their promise to amend Supplemental Consent Decree to address natural resource damage liability.

These concepts (and no doubt others) will be refined as we move forward together on the project. Thank you again for an energetic discussion yesterday afternoon.

Very truly yours,



Jeffery D. Jeep
Special Environmental Counsel

cc: Eric Elk, District Dir. via Email to eric.elk@mail.house.gov
Ray Vukovich, Dir. of Governmental Services via Email to ray.vukovich@illinois.gov
State Senator Terry Link via Facsimile to 847-735-8194 and 217-658-6006
United States Senator Richard J. Durbin via Facsimile to (202) 228-0400 and (312) 353-0150



Rep. Kirk
Winters, Aaron to: Mary Canavan
Cc: Kevin Adler

01/28/2009 04:05 PM

History: This message has been forwarded.

Hi Mary,

We're having a town hall meeting in Waukegan at 2 p.m. on Feb. 7. Before we do the general Q&A with Congressman Kirk, we typically have one or two presentations regarding hot issues in that area.

Would it be possible to get an EPA representative to provide an update (10 minutes max) on the harbor? Can't imagine we'd need anything different than the usual presentations that Kevin does on a regular basis.

The EPA speaker would be near the top of the program. Location is below.

Waukegan Public Library

128 North County Street
Waukegan, IL 60085

Please let me know if that is a possibility. I'd be more than happy to address any questions you may have.

Best,

Aaron

Aaron R. Winters
Congressman Mark Kirk
707 Skokie Blvd., Suite 350
Northbrook, IL 60062
P: 847.940.0202
aaron.winters@mail.house.gov



FYI: Crunch time for cleanup : Waukegan faces funding deadline

Tammy Mitchell to: Judy Beck, Kevin Adler, Scott Cieniawski,
Mike Joyce

04/23/2007 07:22 AM

Tammy Mitchell
Illinois Environmental Protection Agency
1021 North Grand Avenue East #5
P.O. Box 19276
Springfield, IL 62794-9276
Phone: (217) 524-2292
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E-Mail: Tammy.Mitchell@illinois.gov

----- Message from "Tammy Mitchell" <Tammy.Mitchell@illinois.gov> on Sun, 22 Apr 2007 20:54:51 -0500 -----

"Bernie Killian" <Bernie.Killian@illinois.gov>, "Bill Child" <Bill.Child@illinois.gov>, "Bruce Yurdin" <Bruce.Yurdin@illinois.gov>, "Clarence Smith" <Clarence.Smith@illinois.gov>, "Dan Heacock" <Dan.Heacock@illinois.gov>, "Erin Rednour" <Erin.Rednour@illinois.gov>, "Gary King" <Gary.King@illinois.gov>, "Kurt To: Neibergall" <Kurt.Neibergall@illinois.gov>, <Maggie.Carson@illinois.gov>, "Marcia Willhite" <Marcia.Willhite@illinois.gov>, "Ron Burke" <Ron.Burke@illinois.gov>, "Sandra Bron" <Sandra.Bron@illinois.gov>, "Tammy Mitchell" <Tammy.Mitchell@illinois.gov>, "Terry Ayers" <Terry.Ayers@illinois.gov>, "Toby Frevert" <Toby.Frevert@illinois.gov>

Subject: Crunch time for cleanup: Waukegan faces funding deadline

Crunch time for cleanup
Waukegan faces funding deadline

April 21, 2007
By FRANK ABDERHOLDEN fabderholden@scnl.com

A conference call involving environmental regulators, Waukegan's environmental lawyer, and some citizens Friday left some wondering if the Waukegan Harbor cleanup had been torpedoed by the city.

The conference call, according to the source, featured regulators pressing the city's environmental attorney, Jeffrey Jeep, on whether or not the City Council would approve the initial engineering funding of \$140,000 at its May 6 meeting.

If the city does not move forward, \$24 million in Great Lakes Legacy Act funds would be lost and the harbor would not have the last of the PCBs removed from the sediment.

U.S. Rep. Mark Kirk, R-Highland Park, was not on the conference call, but after hearing about it he did call Waukegan Mayor Richard Hyde to get his assurances that the city was committed to the project.

"I just got off the phone with Mayor Hyde. He said we are committed to this project," Kirk said. "We can't leave 24 million federal dollars on the table. It has taken a lot of time and effort to get this money together," he continued, emphasizing that after the cleanup about \$800 million in property value would be added to the lakefront.

He said that the city's attorney may be looking for the perfect plan, "but there is no absolute perfect plan. There's always some detail that could of been better," he said.

The dredging would cover the entire harbor, although the areas around the vacant OMC plant where there is heavier pollution would be dredged deeper, said Scott Cieniawski, project manager for the Waukegan Harbor Sediment Project who is with the United States Environmental Protection Agency.

"I'm cautiously optimistic, but we need to move quickly in order to make it happen," he said, which means city approval at its May 7 meeting so his office can make a July deadline for bidding.

"This puts us in a tight time crunch. It would be very difficult to meet the deadline without an agreement on May 7," he said.

The city declined to comment through the mayor or Jeep. The city has committed \$3 million, the county is contributing \$2.5 million and the state is contributing \$4 million. The state money was in jeopardy at one point, but it is not any longer.

An estimated 1,200 pounds of carcinogenic PCBs (polychlorinated biphenyls) remain in the inner harbor.

http://www.suburbanchicagonews.com/newssun/news/351874,5_1_WA21_HARBOR_S1.article

Tammy Mitchell
Illinois Environmental Protection Agency
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Waukegan.jpg



EPA Comment regarding Waukegan Harbor
roy czajkowski to: Kevin Adler

02/04/2009 05:20 PM

History: This message has been replied to.

Kevin Adler
Remedial Project Manager
EPA Region 5
77 W. Jackson Blvd.
Chicago Illinois 60604

EPA Comment regarding Waukegan Harbor

Dear Mr. Adler

I am writing in support of Option #2 as presented by the EPA for the purposes of public comment on this solution for existing remedial action for Waukegan Harbor. A project of this magnitude requires careful analysis of the science as well as community impact and I thank the EPA for their careful consideration of long term consequence to remedial action plan. Option #2 is the only remedial plan which offers good science because it removes harmful carcinogens permanently without impairments which create liability for future generations.

There are those who prefer a capping solution be adopted for remediation of PCB's in the Waukegan Harbor will prove to be beneficial to the goals of expediency and advance agendas which blur the goals of stewardship of our natural and man made resources. The Federal Channel as well as the deep water port of refuge was created and has been maintained at great expense to the federal, state and local government. The fate of this resource should be protected because of its unique standing as a commercial deep water port that has always supported recreational usage. There will come a time when Great Lakes cruise ships, ferries, research ships, construction barges, and other maritime usage will be welcomed again at the Waukegan Harbor.

Dredging the Waukegan Harbor the health hazard of PCB from the food chain for those who consume fish from the Waukegan Harbor. Removing contamination down to the glacial till where hot spots are present guarantees that there will be no doubt that the job of cleaning has been successfully accomplished. Dredging is good for the health of the fisherman and capping is bad for the future development of the Waukegan Harbor.

Request for extensions to "better study the harbor" as requested by the city only prolong a project which should have been finished years ago. The studies brought forth by the legions of researchers, has consistently concluded that removal of PCB's is the way to solve the pollution issue in the Waukegan Harbor. The research is valid, the project is shovel ready, and opportunity for funding is real.

As a citizen of the City of Waukegan I am grateful for the leadership and interest which the federal government has shown in the past. Please continue the fine tradition of stewardship of the

Great Lakes and make Option #2 a reality for the Waukegan Harbor.

Roy Czajkowski

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Fw: News Clip - GLLA to Clean Waukegan Harbor - Chicago Tribune

Mike Joyce to: KEVIN ADLER, jschreiber, bouchard,
Tammy.Mitchell

11/16/2006 09:49 AM

----- Forwarded by Mike Joyce/R5/USEPA/US on 11/16/2006 09:49 AM -----

Phillippa
Cannon/R5/USEPA/US

11/16/2006 09:42 AM

To Mick Hans/R5/USEPA/US@EPA, Anne
Rowan/R5/USEPA/US@EPA, Mike
Joyce/R5/USEPA/US@EPA, Scott
Cieniawski/R5/USEPA/US@EPA

cc

Subject Fw: News Clip - GLLA to Clean Waukegan Harbor - Chicago
Tribune

This was in the clips yesterday, but I didn't get a chance to forward until today.

----- Forwarded by Phillippa Cannon/R5/USEPA/US on 11/16/2006 09:41 AM -----



"Telle, James"
<JTelle@phelpsdodge.com>

11/15/2006 03:10 PM

To Susan Boehme/R5/USEPA/US@EPA, Marc
Tuchman/R5/USEPA/US@EPA
cc Don Deblasio/R5/USEPA/US@EPA, Phillippa
Cannon/R5/USEPA/US@EPA

Subject News Clip - GLLA to Clean Waukegan Harbor - Chicago
Tribune

Lake County commits harbor-cleanup funds

Dave Wischnowsky

Nov. 15, 2006

Chicago Tribune

CHICAGO – Its image and waters long bogged down by pollution, Waukegan Harbor is taking a big step toward a cleaner – and brighter – future.

On Tuesday, the Lake County Board unanimously approved a \$425 million operating budget for 2007 that includes part of \$2.5 million needed for cleanup of the harbor, which has been plagued by PCB pollution since the 1970s.

Initial funding included in the 2007 budget is \$500,000, officials said, with a promise to fund the entire \$2.5 million eventually.

With the board's approval, Lake County became the first local agency to commit funding to an estimated \$36 million project that advocates say could spark a financial windfall for the region.

"It will help battle the public perception that's a problem every day for people here," board member Bob

Sabonjian (D-Waukegan) said about the proposed cleanup. "The harbor is emblematic of the way things were done in Waukegan.

"But this will help lift spirits; this will open up minds. I see a bigger thing happening here."

Through its **Great Lakes Legacy Act**, the federal government is set to pay 65 percent of the cost for Waukegan Harbor's cleanup, officials said, while local sources must fund the remaining 35 percent, totaling about \$12 million.

With Lake County making its commitment, Waukegan, Illinois and at least two private entities are expected to follow suit, said Bill Muno of the Alliance for the Great Lakes, which supports the Waukegan Harbor project.

"One of the critical steps toward making the dredging a reality is putting together a group of local entities to fund a local share of the project," he said. "And with Lake County's contribution, everything is starting to fall into place."

Waukegan Harbor's saga has been ongoing for 30 years, ever since toxic polychlorinated biphenyls, or PCBs, were first discovered in its waters.

Outboard Marine Corp. – a bankrupt boat-engine manufacturer whose closed factory sits at the north end of the harbor – used a PCB-based lubricant that was washed into the harbor from 1948 to 1971, according to the U.S. Environmental Protection Agency.

PCBs have been shown to cause cancer and other illnesses in lab animals. Studies in humans have shown evidence of carcinogenic effects, according to the EPA.

The factory site and the area of the harbor known as Slip 3 were designated a Superfund site in 1981.

In a federally mandated project completed in 1993, Outboard Marine paid \$22 million to remove about 1 million pounds of PCBs from the harbor and its property.

The new project would include dredging, treating and transporting about 280,000 cubic yards of contaminated harbor sediment, according to the EPA.

U.S. Rep Mark Kirk (R-Ill.) helped secure the federal funding for the Waukegan Harbor project. He said its cleanup could increase residential property values in Waukegan by \$241 million to \$832 million, according to a 2003 study by the Washington-based Northeast-Midwest Institute.

"I think this project has the second-largest economic impact of any in the state, second only to the expansion of O'Hare Airport," said Kirk, who added that Waukegan plans to build condominiums along 1,600 acres of lakefront property.

"The cleanup helps fulfill the vision of redressing a great grievance," Kirk said. "Prosperity has traditionally ended at the Lake Bluff [city limits], but this will help us follow the model of Kenosha and Racine and bring about a rebirth for Waukegan and North Chicago."

Jim Telle
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Newsclips: Kirk-OMC (2)

Mick Hans to: Anne Rowan, Phillippa Cannon, Karen Thompson
Stuart Hersh, Matthew Ohi, Thomas Martin, Milt Clark, Scott
Cieniawski, David Cowgill, Phil Hoffman, Kevin Adler, Mike Joyce,
Cc: Mary Canavan, Ronna Beckmann, Richard Karl, Wendy Carney,
Douglas Ballotti

10/29/2008 08:41 AM

History: This message has been forwarded.

Media coverage from Tuesday's Rep. Kirk-driven event at Waukegan Harbor.

Photo that may someday impress Kevin's kids:

http://www.suburbanchicagonews.com/newssun/news/1247072,5_1_WA29_HARBOR_S1.article

EPA to rid Waukegan Harbor of hot spots \$34M project to close book on PCB legacy

October 29, 2008

By FRANK ABDERHOLDEN fabderholden@scn1.com

The United States Environmental Protection Agency announced Tuesday that it will dredge the remaining PCB hot spots in Waukegan Harbor.

U.S. Rep. Mark Kirk, R-Highland Park, announced the new federal plan that will cost \$34 million and move 200,000 cubic yards of sediment from the harbor. Under Superfund law, the state is responsible for 10 percent of the costs.

[» Click to enlarge image](#)

U.S. Rep. Mark Kirk looks at an aerial map of the Waukegan Harbor with Kevin Adler (left), project manager for the Outboard Marine Corp. (Thomas Delany, Jr./News-Sun)

[» Click to enlarge image](#)

The Waukegan Manufactured Gas and Coke Plant on Seahorse Drive takes contaminated water from the former coke plant site and filters it.

Toxic legacy

Outboard Marine Corp. operated on the Waukegan lakefront between 1948 to 1971 before going bankrupt. It dumped hydraulic fluid used in the dredging of the harbor. The USEPA said 700,000 pounds of PCBs were in the surrounding soil and 300,000 pounds were in the harbor sediment.

OMC spent \$21 million between 1990 and 1992 to remove 300,000 pounds of PCBs from the harbor. Those were taken off site for destruction. Thousands of pounds of the PCBs still in the harbor sediment.

The USEPA is presently cleaning the groundwater at the old coke plant site next to the harbor and the old OMC plant by pumping the water out and treating it for arsenic and other toxic compounds. The treatment plant recently started up and is presently running at 4 percent capacity. There are 36 cells that have been returned to the ground. It is expected to take between 3 and 8 years to complete the job.

Public hearing

A public hearing on the harbor clean-up plan will be held Nov. 13 from 6 p.m. to 8 p.m. 13 at the Jane Addams House at Bowen Park in Waukegan.

"We've tried for years to create a plan that would remove this threat to our community, and at long last help is on the way," said Kirk for a harbor dredging and clean-up, but it was rejected by the city of Waukegan a year ago.

"The good thing about this plan is it's going to bring (the PCBs) down to the lowest level we can," said Kevin Adler, project manager for the EPA. "It doesn't change the depth of the harbor," he added.

The dredged material will be dewatered on the OMC Plant 2 site using geo tubes that are filled with sand. Once the material is dewatered, it can be used as a park when the city redevelops the area into condominiums.

"It's the federal government's job to remove threats to human health," said Kirk.

Adler said that removing the remaining PCB contaminated soil and capping the harbor floor with sand and gravel along the seawalls (collapse) would keep the PCBs out of the food chain. It could mean the lifting of the fish-eating advisory now in place.

"We're estimating five years from after the work is done," he said.

The project will go out to bid early next year after the plans are approved and work could start in 2011 and will take just one boating

"We are way behind Kenosha," said Kirk, referring to lakefront redevelopment. He said a Northeast-Midwest Institute study claimed approximately \$800 million to Lake County property values which would help the school district and other taxing bodies.

"This is good news for the environmentalist in the area," he said.

Mayor Richard Hyde said it was great news.

"That's great if they'll do it. It would be a plus for us and a plus for the development down there. Then people would know the harbor

The city has decided that they want the harbor to become a recreational harbor and they intend to eventually get rid of the industry through, the huge props tear the hell out of the bottom. It's nothing but brown water," he said.

Mick Hans
Media Relations
Office of Public Affairs
U.S. EPA Region 5
Chicago, IL
312 353-5050
fx 312 353-1155

— Forwarded by Mick Hans/R5/USEPA/US on 10/29/2008 08:29 AM —



Emmett Joyce
<emjoyce@sbcglobal.net>

To

10/29/2008 01:11 AM

Subject Daily Herald OMC-Harbor Story

Please respond to
emjoyce@sbcglobal.net

Daily Herald

Big Picture . Local Focus

New plan will remove most of PCBs from Waukegan harbor

By Mick Zawislak | Daily Herald Staff

Published: 10/29/2008 12:02 AM

A new federal plan would pay for removal of contaminated sediments from Waukegan Harbor.

U.S. Rep. Mark Kirk on Tuesday said the federal government would provide \$34 million to essentially remove all remaining PCBs from the harbor and make the area more attractive for development.

"Our hope is to get back on track. We're far behind Racine and Kenosha," Kirk said.

About 90 percent of PCBs have been removed from the harbor. This round would remove 90 percent of what remains, or 200,000 cubic feet of contaminated material - enough to cover about 125 acres one foot deep.

"This gets us to the level technology allows us to," Kirk said.

He previously secured \$25 million in federal funds for cleanup work through the Great Lakes Legacy Act, which would require contributions from other parties including the city.

Waukegan city officials reversed course last year by insisting the larger ships not be allowed to use the harbor, which effectively would have put the remaining industrial companies there out of business. The federal Environmental Protection Agency disbursed the funds elsewhere.

The most recent plan will be done under federal Superfund jurisdiction and is employed "when a community was unwilling or unable to remove a threat to human health," Kirk said.

The work will not include navigational dredging, he added.

Final review is under way by the National Remedy Review Board. A 60-day public comment period will begin within a week. A public hearing is Nov. 13, at Bowen Park, 1800 N. Sheridan Road, Waukegan.

A decision is anticipated in February.



Inquiry from Rep. Kirk re: Waukegan Harbor
Mary Canavan to: Thomas Martin
Cc: Kevin Adler, beckmann.ronna

12/03/2008 09:54 AM

Tom,

Rep. Kirk's office contacted us in light of the article below. Kevin told me that he didn't see this changing our current path toward cleanup of the Harbor, but suggested I check with you. Thanks.

Mary

Mary J. Canavan
Congressional/Intergovernmental Liaison
USEPA, Region 5
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— Forwarded by Mary Canavan/R5/USEPA/US on 12/03/2008 09:47 AM —



"Winters, Aaron"
<Aaron.Winters@mail.house.
gov>

To

Subject Harbor

12/03/2008 09:45 AM

Mary/Kevin –

Does the news below change EPA's plans to proceed on the current path for cleaning up the harbor?

Thanks,

Aaron

Aaron R. Winters
Congressman Mark Kirk
707 Skokie Blvd., Suite 350
Northbrook, IL 60062
P: 847.940.0202
aaron.winters@mail.house.gov

News Sun: Waukegan can pursue harbor cleanup suit

WAUKEGAN -- City officials reported late Tuesday that their court battle to force Seahorse Drive businesses to fund a cleanup of Waukegan Harbor was given a boost last week in federal court.

In September, the lawsuit filed in 2007 against such harbor businesses as Bombardier Motor Corp., Lafarge North America Inc. and National Gypsum Co. stalled when U.S. District Court Judge Matthew F. Kennelly dismissed all claims.

But in a statement released Tuesday afternoon, city officials said "in a stunning reversal, last week the judge found that the harbor industries can be liable for the cost of cleaning up the OMC Superfund Site, which includes the harbor and former (Outboard Marine Corp.) North Plant."

The statement added that Kennelly "previously ruled that the City's claims against Bombardier (could) also proceed forward."

Tuesday's news came after the U.S. Environmental Protection Agency announced in October that it would proceed with a \$34 million cleanup of polychlorinated biphenyls (PCBs) in the harbor.

The city contends that the PCBs, originally dumped in the water by now-defunct OMC, have been dispersed throughout the harbor by prop wash from boats used by shoreline industries.



Fw: WAUKEGAN HARBOR CAPPING

Mary Canavan to: Mary Gade

04/27/2007 03:58 PM

Cc: Bharat Mathur, Gary Gulezian, Cynthia Faur, Julie Spellman, Scott Cieniawski, Phil Hoffman, Kevin Adler, David Cowgill

Mary,

FYI - Rep. Kirk's office has sent us numerous questions this week re: the possibility of capping portions of Waukegan Harbor as part of the GLLA cleanup. My understanding from Scott Cieniawski in GLNPO is that the capping issue is being raised by Jeff Jeep, the City of Waukegan's attorney.

----- Forwarded by Mary Canavan/R5/USEPA/US on 04/27/2007 03:50 PM -----

Record of Congressional Telephone Conversation - Region 5

SUBJECT: WAUKEGAN HARBOR CAPPING

ID #: 090

Save/Continue

CONGRESSIONAL:

DATE:

04/23/2007

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CONTACT: ED KELLY/ROY CZAJKOWSKI

PHONE NUMBER:

847-940-0202

OFFICE: REP. KIRK

STATE:

IL

ACTION FLAG:

N

=====

CONTACTS: SCOTT CIENIAWSKI 3-9184; KEVIN

DATE RESPONDED:

04/27/2007

SUMMARY:

Ed K. and Roy C. called re: a request from the Congressman. He understands that a report was generated about 1 1/2 years ago re: capping of the sediments in place in Waukegan Harbor. They want to know if we have a copy of this report and if the Congressman can get more information on this.

RESPONSE:

4/23: I left a message for Kevin Adler (6-7078) as Scott is out of the office until tomorrow. Kevin left a message that he is on leave until Wednesday. He said that they may be talking about an alternatives analysis document prepared for the harbor cleanup, which can be found in the Waukegan repository or the 7th floor SF records center. He can discuss this in more detail when he returns to the office on 4/25.

4/24: Scott C. joined me on a call with Ed and Roy. He explained that a 11/04 document, "Remedial Alternatives Array Document Gaps Analysis", looked at capping as part of screening a number of alternatives. It looked at in-situ capping for portions (N. Harbor and Marine area) of the project, but not the entire harbor (as it is a navigation channel). There was only a small cost difference between capping and dredging and dredging was selected as the preferred approach. The current proposal is to dredge to 19 feet, with industry picking up any additional charge to dredge deeper.

Given the large size of the report, Roy asked if Scott could put something brief together on the capping option (pros and cons) and why it was not selected.

4/25: Scott sent the following information to Ed and Roy.
Roy and Ed:

Attached is the summary you requested regarding the viability of an in-situ capping option for Waukegan

Harbor sediments.

Also, you inquired as to what type of project we might be able to implement if the industry's contribution was reduced to \$1M. By my math, this would leave us with approximately a \$10.5M non-federal contribution (\$4M state, \$2M City, \$2.5M County, \$1M industry, and \$1M in-kind services), which could leverage a total project of approximately \$30M. This level of funding would make the budget extremely tight, but we might be able to pull off the following project. (See PPT attachment for harbor segments)

1. Capping of North Harbor sediments with Outer Harbor sediments dredged by the U.S. Army Corps of Engineers (state approval would be required for use of the Outer Harbor material in this manner).
2. Dredging in the Entrance Channel, Inner Harbor, and Inner Harbor Extension segments to remove sediments with >1 ppm PCBs and to achieve a water depth of -19-feet LWD.
3. Limited dredging in the Marina segment to remove approximately 60%-80% of the sediments and contaminant mass, followed by capping with U.S. Army Corps of Engineers Approach Channel sediments.
4. Placement of sand cover layer over entire project area using U.S. Army Corps of Engineers Approach Channel sediments.

(Note: A \$30M budget would probably not provide for any seawall repair costs, nor any funding for reconstruction of the Port District marina)

I believe that this type of project would be environmentally protective and potentially allow for delisting of the Waukegan Harbor AOC. However, implementation would require regulatory flexibility at the state level, stakeholder support (especially from the Port District and Larsen Marine) regarding reduced water depths in the North Harbor and Marina segments, and a non-federal sponsor willing to commit to long-term operations and maintenance of the capped areas. Also, the U.S. Army Corps of Engineers would need to place their Outer Harbor and Approach Channel materials in our project area free of charge to the project.

Please let me know if you need additional information.

Sincerely,

Scott Cieniawski, Project Manager
U.S. EPA - GLNPO
312.353.9184



Capping in Waukegan Harbor.doc



Waukegan Harbor Segments.ppt

4/26: Roy C. submitted these additional questions:

Scott - I am forwarding some additional questions

Get from Scott at EPA if the project can still move forward if capping is involved?

Find out if the EPA will still move the project forward if capping is done and if the EPA feels that the harbor will be considered cleaned or restored?

Find out if the EPA believes that the Harbor could still be de-listed or removed as an area of concern if capping was done in parts of the Harbor.

Find out if Scott has any science or material to support or debunk capping as a way of restoring the harbor.

4/26: Scott sent the following response:

In response to your inquiries:

1. This project could potentially still move forward with with in situ capping components to the project. Capping is considered a scientifically valid alternative for sediment remediation depending on site-specific conditions. We would need to review the revised proposal and gauge stakeholder support of the option before determining if the project should move forward with a capping option. If the city proposes capping in the federally authorized navigation channel, we would probably require them to obtain the required permits before moving forward.

From my standpoint, a successful capping alternative could lead to a fully "cleaned" and "restored" harbor. Additional design work would need to be performed to determine whether would could successfully implement a capping remedy at this site.

2. If we determine a capping alternative is viable, and we successfully implement a capping alternative, I don't see any roadblocks to potentially delisting the harbor as an Area of Concern. However, the State of Illinois and the Waukegan CAG have the lead role in proposing the harbor for delisting. Therefore, state and local support would be necessary.

3. We have not done any in-depth, site-specific evaluations of the viability of capping at this site. The November 2004 Remedial Alternative Array Document does a screening level analysis of an in-situ capping option combined with dredging in the federal navigation channel. I don't have the document in front of me (I'm currently on travel), but I am fairly certain that the document indicates that a combination capping/dredging option is a viable alternative, at least from a screening level.

There are also general in-situ capping guidance documents available that discuss the viability of capping in general.

I will be in the office tomorrow, but if you need to get in touch with me today, please call my cell phone (312.952.4311).

Scott

4/27: Scott received these additional questions re: capping from Eric Elk, Rep. Kirk's District Director:

"Eric Elk" <elkman2@gmail.com>



"Eric Elk"
<elkman2@gmail.com>

04/27/2007 12:28 PM

To

Subject Waukegan Harbor

Scott-
thank you for all of the information you have provided.

What needs to happen between now and July 27 if capping is the decided alternative for cleaning up the harbor? Does the city need to submit a new engineering plan, another meeting in front of the technical review committee etc? Also, does the local sponsor need to drive this or who needs to lead this? Does the city need to remain local sponsor? At this stage could there be an alternative local sponsor besides the city (for example the industry as local sponsor to for alternative remediation effort...the federal channel into the harbor /marina)?

Do you have an estimate of cost on capping?

Can and at what point can the legacy funding be used for any of the two alternatives?

At this point it seems there could be three possibilities:

1. stay the course on the current plan dredging plan that was proposed to the technical review committee.
2. proceed with capping alternative
3. have the industry sponsor the cleanup of the channel and the city be the sponsor for capping the other parts of harbor.

Also, can you provide a timeline to get capping approved and a timeline if capping moves forward what the timeline to completion would be and a timeline for a combined capping/dredging?

Scott- Can you get back to me with as many answers to these requests today or over the weekend.

Again, thank you for all of your help on getting these answers.

4/27: Scott sent the following response:
Eric:

Without concrete details regarding the capping alternative, it is nearly impossible for me to respond to your questions without caveating. I have tried to reach John Moore from the City of Waukegan to obtain some insights into what the capping alternative entails, including areas to be capped, final water depths, etc. However, John is out of the office today, and I haven't been able to reach anyone who will provide me with any details of what the city envisions a capping proposal might look like. In order to give definitive answers, I would need to see the city's proposal, and then sit down with the stakeholders and regulators to gauge their acceptance.

In addressing your specific questions:

1. What needs to happen between now and July 27 if capping is the decided alternative for cleaning up the harbor? Does the city need to submit a new engineering plan, another meeting in front of the technical review committee etc?

If the city were to propose a capping alternative for some, or all, of the contaminated sediments in Waukegan Harbor, they would need to submit a new engineering plan and proposal, but I'm not 100% certain that they would need to provide another oral presentation to the technical review committee. We could, potentially, handle the review through email correspondence and conference calls. It depends on exactly what they propose.

However, to even begin moving this project forward under a capping alternative, the city would need to demonstrate broad stakeholder support, adequate funding (e.g., 35% minimum non-federal cost share), a commitment and ability to assume long-term operations and maintenance responsibilities, and the regulatory viability of the project. This may take some time, considering that none of the stakeholders have had a chance to see the proposed capping alternative.

2. Also, does the local sponsor need to drive this or who needs to lead this? Does the city need to remain local sponsor? At this stage could there be an alternative local sponsor besides the city (for example the industry as local sponsor to for alternative remediation effort ...the federal channel into the harbor /marina)?

Initially, the non-federal sponsor will need to take the lead on a revised proposal. Depending on exactly

what is proposed, we may then be able to proceed in a partnership manner once we get a clear picture of what is being proposed. However, the non-federal sponsor would be expected to take the lead in evaluating and demonstrating broad stakeholder support for the project, as well as the ability to implement the proposed remedy (e.g., obtain required permits).

U.S. EPA would be open to considering an alternate non-federal sponsor (state, industry, etc.), but based on my conversations with the other potential NFS, I'm not sure that any of them are interested in taking the lead role, without having some type of agreement in place with the City of Waukegan. Also, I think the 35% minimum cost-sharing requirement might be difficult for the other potential NFSs to meeting without a contribution from the city. Finally, I think that it would be difficult to implement a remedy at this site that the city actively opposes, so we'd probably need them on board with any proposed project.

3. Do you have an estimate of cost on capping ?

We never developed a cost estimate for a capping the entire harbor, since this was not considered a viable alternative given the presence of the federally authorized navigation channel. In November 2004 we did develop a cost estimate that included dredging in the federal navigation channel and capping in the North Harbor and marina segments. That remedy was estimated to cost approximately \$25M, but assumed disposal of sediments at the Yeoman Creek Landfill, and YCL is no longer an option for disposal location. Taking inflation costs and costs for going to a commercial landfill into account, we're probably talking about a cost of close to \$32M. Note, the cost estimate was developed at such a conceptual level, that it's probably no better than +/- 30%. So using a cost range of \$23M to \$42M is probably appropriate.

4. Can and at what point can the legacy funding be used for any of the two alternatives ?

As long as there is broad stakeholder support and the project meets the other requirements of the Great Lakes Legacy Act we could we could potential fund one, or the other alternative, or a combination of the two. However, we still have the deadline of July 2007 to sign a project agreement for remedial action. Signature on a project agreement would require clear vision on any permitting issues, as well as development of an engineering design for whatever alternative, or combination of alternatives, is selected.

Any major changes to the proposed project would require technical review committee review. U.S. EPA management would make any final funding decisions.

5. At this point it seems there could be three possibilities :

(1) stay the course on the current plan dredging plan that was proposed to the technical review committee.

(2) proceed with capping alternative

(3) have the industry sponsor the cleanup of the channel and the city be the sponsor for capping the other parts of harbor .

I agree that there are these three alternatives, but until I see more details, I am not sure that (2) is a viable, permissible alternative. Additionally, alternatives (2) and (3) are well behind in the regulatory process, and have not been vetted by the stakeholders. Therefore, these two alternatives may be more difficult to evaluate and design prior to our July 2007 deadline. All of our analysis over the last couple years has been focused on the dredging alternative that all the stakeholders agreed to support back in 2005.

6. Also, can you provide a timeline to get capping approved and a timeline if capping moves forward what the timeline to completion would be and a timeline for a combined capping /dredging?

I'm hesitant to provide a timeline until I see what a capping proposal might entail. Regulatory and stakeholder acceptance will significantly impact the timeline. Before providing a timeline, I'd like to see the proposal and then sit down with the various stakeholders and regulators.

I hope this helps. Please call if you would like additional information .

Sincerely,

Scott Cieniawski, Project Manager
U.S. EPA - GLNPO
312.353.9184

Recorded By: Mary Canavan